

**Santa Barbara County Enforcement Work Plan 2011 – 2013**

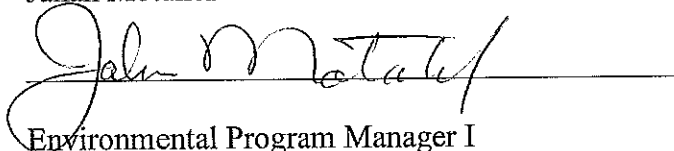
**Enforcement Work Plan  
Pesticide Regulation Program  
2011 – 2013**

Department of Pesticide Regulation and  
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# **ENFORCEMENT WORK PLAN**

**Pesticide Regulation Program**

**2011 - 2013**

# **County of Santa Barbara Pesticide Enforcement Work Plan – 2011/2013**

## **I. INTRODUCTION**

The Santa Barbara County Agricultural Commissioner's Office (SBCAC) will continue to focus on the safety of the public, field workers, and the environment. Agricultural products and size of farming operations vary greatly between regions within Santa Barbara County. This diversity often requires a different focus and use of different tools for permitting, inspections, and staffing. Principle crops grown in the Santa Maria, Lompoc, and the Cuyama areas remain strawberries, and rotational crops including cole crops, lettuces, artichokes, and carrots. The Solvang area supports a large proportion of permits and operator identification numbers for wine grapes, and the Santa Barbara/Carpinteria area has permanent crops such as avocados and lemons as well as a large number of plant nurseries and greenhouses.

## **II. PROGRAM IMPROVEMENT**

The SBCAC conducted an internal review of the PUE program to address deficiencies noted during the 2009-2010 Performance Evaluation of the program which resulted in the department instituting the following:

1. Implemented program-based work assignments for the Santa Maria office which covers the Cuyama, Santa Maria, and Lompoc areas. Four biologists are dedicated to PUE and three to quarantine. All four PUE biologists are licensed in pesticide enforcement; one has over 20 years experience, two have ten years experience and one has five years experience. Two of the four biologists are bilingual (English and Spanish). Those specializing in quarantine are also trained and licensed in the PUE program and conduct application and headquarter inspections and assist with complaints and investigations as available. The PUE deputy is also based in the Santa Maria office. In the Santa Barbara office, four biologists and the supervising biologist work in both the quarantine and PUE programs. This staff covers the southern region of Santa Barbara County including Carpinteria, Santa Barbara/Goleta, and Santa Ynez. Two of the biologists and the supervisor have more than 20 years of experience and are able to assist the other two biologists who have only one year of experience. One of the biologists in the Santa Barbara office is bilingual.
2. Will hire two more biologists who will work primarily in the PUE program.
3. Assigned inspection goals to all biologists working in the PUE program which include increased structural and fieldworker inspection goals. Biologists will conduct headquarter records inspections by appointment to be efficient and more accurately assess compliance.
4. Instituted weekend and evening surveillance and inspections.
5. Changed schedules to allow staff to participate in twice monthly oversight inspections with the EBL.
6. Trained staff to document restricted material permit denials to insure conformance with DPR policies and procedures.
7. Trained staff to correctly complete investigative reports. Staff will field complaint calls based on their availability at the time of the complaint. Staff will email complaint information to management and other staff to insure accurate notification and response.
8. Surveyed all staff to determine their training needs, designated two biologists as training coordinators to ensure training opportunities are made available to staff and began conducting training sessions during weekly staff meetings.

These staff and program changes will address DPR's concerns identified in the compliance monitoring and enforcement response sections of the evaluation.

### **III. CORE PROGRAM PRIORITIES**

#### **A. Restricted Materials Permits**

The CalAgPermit system will offer new workload challenges but the department will continue to conduct careful restricted materials permit review, write conditions, and conduct pre-application inspections based on historical and sensitive-site data. The transition from RMMS to the CalAgPermit system in October will require a shift in focus and additional time for training and trouble shooting.

##### **1. Permit Evaluation**

The transition from RMMS to the CalAgPermits system in October of 2011 will require additional time for staff training and transitioning through the new system. The number of restricted material permits issued in Santa Barbara County averaged 503 over the period of 2009-2010 and is anticipated to remain fairly stable for the next two years. Biologists will continue to evaluate permits and discuss use of feasible alternatives, conduct pre-application inspections as required by regulation, and give priority to fumigant NOIs and site monitoring.

##### **2. Specific Permit Issues**

Every year the SBCAC removes soil fumigants from all permits. This allows a fresh review of each site before the new permit is issued. Based on DPR's 2009 data, the Santa Maria area was ranked fifth in the state for soil fumigation usage. Permit conditions include restrictions on daily acreage amounts, time of application and temperature at the site, use of buffer zones, and timing and numbers of water seals. The SBCAC issued 93 methyl bromide permits in 2008. Since that time the number has decreased slightly to 82 permits in 2010. Use of other fumigants including metam sodium/potassium, 1,3-dichloropropene, and chloropicrin, is gradually replacing methyl bromide. The department tracks methyl bromide use to insure compliance with the township cap. The shift from methyl bromide to alternative fumigants is not likely to reduce the number of permits issued or the work to review and mitigate those permits. Due to the new fumigant labels and their detailed, complex language as well as the 2011-2012 label revisions, the SBCAC expects an increase in the time spent on permit review and issuance for fumigants.

Twice a year, the SBCAC participates in roundtable discussions with other coastal counties and DPR staff representatives. The group focuses on fumigant use and conditions as they specifically apply to the coastal counties.

In addition to fumigants, permits are conditioned based on proximity to residences and schools, application method (aerial, ground, chemigation), and other pesticides including phenoxy herbicides, rodenticides, and Section 18 pesticides. Specific sites on individual permits are conditioned on a site-by-site basis determined by local conditions.

##### **3. Site Monitoring**

The SBCAC currently conducts pre-application site inspections on five percent of Notices of Intent (NOIs) per Title 3 of California Code of Regulations section 6436. The department assesses sites for final conditioning, and evaluates new features before finalizing the permit. To address sensitive areas with potentially greater hazards and/or a greater potential for complaints, priority

is given to inspecting areas where field fumigations, including fumigant chemigation, ag/urban interface, or aerial applications will be conducted.

### **Restricted Material Permits**

#### **Goals:**

Ensure permits and sites are evaluated and conditioned prior to issuing a restricted material permit. Ensure staff is fully trained and proficient on the CalAgPermits system.

#### **Deliverables**

1. Train staff to use the CalAgPermits system by December of 2011.
2. Remove fumigants from all permits at the beginning of the 2012 permit year. Review restricted materials used during prior year with the permittee and remove unused restricted materials from the permit.
3. Conduct pre-application monitoring of at least 5% of total NOIs received, emphasizing fumigations, aerial applications, ag/urban interfaces, and other sensitive site applications.
4. Conduct site monitoring of all non-ag restricted materials permits at least once a year.

#### **Measures**

The success of the restricted material permit program will depend on permits that are adequately conditioned to mitigate exposure, an informed and compliant industry, and a community that is aware of the conditions on restricted material permits.

### **B. Compliance Monitoring**

Santa Barbara County has redesigned the enforcement program to direct surveillance and inspections for both regular workday hours as well as during the evening and weekends. The department has created a complaint tracking database to ensure complaints are completed in a timely manner and have instituted new training opportunities for staff.

#### **1. Inspections**

In 2010 the SBCAC conducted approximately 272 inspections, up from 269 inspections in 2009. The department proposes to complete 392 inspections in both 2011 and 2012, an increase of approximately 30% (see table below). This number may need to be adjusted depending on the number of complaints and illness investigations received and other external factors such as quarantine workloads and emergency projects. The new inspection goals are designed to address the inadequate number of inspections noted in the 2009-2010 evaluation. Inspections will focus on: applications of category I and II pesticides, fumigants and other restricted materials, applications with potential for drift including aerial and late-afternoon applications, applications near sensitive sites with potential for worker and public exposure, structural applications, and companies and individuals with poor compliance histories. Staff documents all non-compliances found during inspections and adds relevant remarks on the inspection forms. The inspection form serves as the Notice of Violation. After completing the initial inspection, staff conducts a follow-up inspection for all applications that contain non-compliances to ensure violations are corrected and to provide information to prevent violation recurrence during future applications. Separate NOVs or Warning Letters are issued for violations found during the course of investigations.

#### **2. Investigations**

The CAC investigates approximately 45 complaints a year, most of which are related to pesticide use. Complaints originate from a variety of sources including public complaints (usually by telephone), DPR, and other governmental agencies. The majority of complaints involve issues around odor, pesticide drift and volatilization, agricultural/urban interface issues, and fumigants. The department created a database to accurately track investigations by a variety of parameters and trained staff to consult with DPR regarding complaints.

### 3. Training

Inspectors will work with the newly created in-house Enforcement Mentoring Group (EMG) composed of two experienced biologists; one from the Santa Barbara office and one from the Santa Maria office. The biologist and EMG will discuss non-compliances and advise on appropriate action (compliance or enforcement). Biologists also attend DPR sponsored training as well as department training using experienced staff and DPR Compendiums. All PUE biologists will participate in the twice monthly EBL oversight inspections.

### Compliance Monitoring

#### Goals

Maintain an effective pesticide compliance monitoring system, prompt and accurate complaint investigation, and maintain a highly trained staff to assure safe use of pesticides in Santa Barbara County.

#### Deliverables

The SBCAC will:

1. Increase the number of agricultural, structural, fieldworker safety, and soil fumigation inspections to approximately 392 according to the table below:

	Pre-apps	Grower PMUI	Grower M/L	PCB PMUI	PCB M/L	Field fume	FWS	Br 1	Br 2	Br 2 M/L	Br 3	HQ	St HQ	Totals*
SM bio1	20	11	3	10	2	5	10	5	2			5		53
SM bio2	20	11	3	10	2	5	10	5	2			5		53
SM bio3	20	11	3	10	2	6		7	2	1	1	9		52
SM bio4	20	11	4	10	2	5		5	5	1	1	9		53
SB bio1	7	11	3	8	1	2	7	6	2	2		3		45
SB bio2	7	11	3	8	1	2		6	5	1	1	8		46
SB bio3	8	11	3	8	1	1		6	5	1	1	7	1	45
SB bio4	8	11	3	8	1	1		6	5	1	1	7	1	45
Totals	110	88	25	72	12	27	27	46	28	7	5	53	2	392

\*totals do not include pre-apps

2. Identify priority investigations and ensure they are completed according to the Cooperative Agreement between EPA, DPR, and the CAC.
3. Investigate all complaints of pesticide exposure and misuse from all sources according to the DPR policies and procedures.
4. Produce investigative reports that meet DPR guidelines.

5. Maintain a complaint tracking database as required by DPR policies and procedures.
6. Coordinate training opportunities offered by DPR.
7. Provide in-house staff training.
8. Increase the number of oversight inspections to twice a month to confirm inspections are conducted according to proper protocol in Inspection Procedures Manual and other DPR guidance as provided.

### **Measures**

The success of the Compliance Monitoring program will depend upon inspections and investigations that provide complete and accurate information and evidence to the SBCAC and DPR. Inspections will identify areas of non-compliance that need corrective action and will result in a regulated community's awareness of the pesticide laws and regulations. Investigation reports will contain information for DPR to assess human exposure or environmental hazard issues. A trained, knowledgeable, and fully-functioning staff will meet the inspection goals.

### **C. Enforcement Response**

The SBCAC promotes and influences compliance of pesticide laws and regulations through enforcement actions. The enforcement mentoring group works with the PUE Deputy to recommend actions based on evidence evaluation and the enforcement response regulation. During the two-year period of 2009-2010, the department issued 42 civil penalties and held 8 hearings. Cases that entered the appeal process include: a field worker pesticide exposure appealed to Superior Court (pending); a structural fumigation exposure appealed to the Structural Pest Control Board and overturned; and a field fumigation violation appealed to DPR and upheld.

### **Goal**

Identify and collect evidence for evaluation to adequately classify and address violations for enforcement response.

### **Deliverables**

1. Document violations completely and accurately.
2. Apply enforcement actions consistently and fairly.
3. Maintain the inspection application database that provides compliance inspection history.
4. Utilize the in-house enforcement mentoring group to review violations, recommend courses of action, and train staff.
5. Provide the EBL with:
  1. Draft Class A NOPA prior to issuing the NOPA.
  2. All hearing requests in a timely manner.
  3. Case referrals to other agencies.
  4. Decision reports within 60 days of the date of the incident.

### **Measures**

The success of the enforcement response program will be based upon on staff correctly collect and evaluate evidence that supports or refutes violations. The department will propose enforcement actions in the correct class to change the behavior of repeat violators and reduce human and environmental pesticide exposure.

### **D. Optional Activities**

### **Compliance Education and Outreach**

The SBCAC provides outreach and compliance assistance to growers, applicators, pest control businesses and field workers at speaking engagements for CAPCA, PAPA, Target, etc., as well as at specially-designed seminars and workshops for various commodity groups such as vegetable, grape and strawberry growers. The department conducts training sessions for large and small groups in both English and Spanish and provides outreach to the general public through community meetings and various other speaking engagements such as homeowner association meetings. These informational/educational efforts support the mission of protecting the public, environment and field workers.

Specific outreach efforts include:

1. Santa Maria staff conducted one-on-one fumigant informational sessions with pest control businesses and growers who use fumigants in addition to providing assistance to growers working near sensitive sites and training to any grower studying to be certified as a private applicator.
2. The PUE Deputy contacts persons who violate laws and regulations when a decision report is written. The letter explains the enforcement response process and invites stakeholders to call if they have questions or concerns.
3. The department publishes a quarterly newsletter that shares information about pesticide use issues, upcoming training, and new regulations. The newsletter is distributed to growers, shippers, packers, pest control businesses, community groups and the public.